

REMARKS

Claims 9 and 28 were previously cancelled. Claim 19 is amended. Claims 1-8, 10-27, and 29-30 remain in the Application. Reconsideration of the pending claims is respectfully requested in view of the above amendments and the following remarks.

I. Claims Rejected Under 35 U.S.C. § 103(a)

A. Claims 1-8, 10-18, 24-17, 29 and 30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over US Patent No. 6,718,298 issued to Judge (“Judge”) in view of US Patent No. 6,816,832 issued to Alanara et al. (“Alanara”). Applicants respectfully traverse the rejection.

To establish a *prima facie* case of obviousness, the relied upon references must teach or suggest every limitation of the claim such that the invention as a whole would have been obvious at the time the invention was made to one skilled in the art.

Claim 1 includes the elements of “determining a silence description frame that includes the count of silence frames, wherein the silence description frame has a size equivalent to the size of an active frame” and “storing the silence description frame.” Applicants submit that Judge in view of Alanara does not teach or suggest these elements.

Judge is relied on for disclosing counting untransmitted frames and storing a silence description frame. The Examiner recognizes that Judge does not disclose “determining a silence description frame that includes the count of silence frames, wherein the silence description frame has a size equivalent to the size of an active frame,” but relies on Alanara to remedy this deficiency. Alanara discloses transmitting comfort noise parameters during discontinuous transmission (the title). At the end of a speech burst, six consecutive non-speech frames are transmitted to form a hangover period (col. 12, lines 4-9). The transmitter side computes a new set of comfort noise parameters during the hangover period and transmits the parameters in the seventh frame (col. 12, lines 10-11). The transmitter side also keeps track of the number of speech frames that have elapsed since the last set of comfort noise parameters were computed and transmitted (col. 12, lines 13-15). This number of elapsed frames is indicated by N_{elapsed} as shown in FIG. 8 (col. 5, line 66 – col. 6, line 2), and is used at the end of a speech burst for determining whether a new set of comfort noise parameters should be computed.

The Examiner characterizes the parameter N_{elapsed} as the claimed silence description frame that includes the count of silence frames. However, as explained above, the parameter N_{elapsed} is not a count of **silence frames**. Rather, the parameter N_{elapsed} is a count of **speech frames** that have elapsed since the last set of CN parameters were computed and transmitted. Thus, Alanara does not cure the deficiency of Judge, because Alanara also does not teach or suggest a silence description frame that includes the count of silence frames. Thus, the cited references do not disclose either **determining** or **storing** a silence description frame that includes the count of silence frames. Thus, Judge in view of Alanara does not teach or suggest each of the elements of Claim 1.

The Examiner also relies on Alanara for disclosing a silence description frame having a size equivalent to the size of an active frame, because FIG. 8 allegedly shows that active speech frames and silence frames are both 20 ms in length. However, FIGs. 3, 4, 8, 9 and col. 12, lines 4-14 of Alanara clearly disclose that the CN frames shown in the figures are the **time frames** during which no speech is transmitted. Those time frames indicate the smallest time unit for data transmission, which is unrelated to the size of the frames in **storage**. For example, a portion of a time frame may be used to transmit data and the rest of the time frame may be padded with zero bits. In this scenario, the storage does not necessarily store all of the transmitted bits, but instead may store the data bits only. The claimed silence description frame is a frame in storage. Neither reference discloses the format or the size of a silence description frame in storage. Thus, the cited references do not disclose the claimed silence description frame. Thus, Judge in view of Alanara does not teach or suggest each of the elements of Claim 1 for this additional reason.

Analogous discussions apply to independent Claims 11 and 24.

In regard to Claims 2-8, 10, 12-18, 25-27, and 29-30, these claims respectively depend from Claims 1, 11, and 24 and incorporate the limitations thereof. Thus, at least for the reasons mentioned above in regard to Claim 1, Judge does not anticipate these claims. Accordingly, reconsideration and withdrawal of the § 103 rejection of Claims 1-8, 10-18, 24-27, and 29-30 are requested.

B. Claims 19, 20 and 23 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over US Patent No. 5,890,109 issued to Walker et al. ("Walker") in view of US Patent No. 5,241,535 issued to Yoshikawa ("Yoshikawa").

Claim 19 is amended to more clearly point out that the silence description frame filer "stores a silence description frame that includes a count of silence frames and has a size equivalent to the size of an active frame." Walker in view of Yoshikawa does not teach or suggest at least these elements.

Walker is relied on for disclosing the playback of an audio signal including silence frames, and Yoshikawa is relied on for disclosing a variable-size packet transmitter. However, the cited references, separately or combined, do not teach or suggest any device that stores a silence description frame that includes a count of silence frames and has a size equivalent to the size of an active frame. The Examiner has not identified and Applicants have been unable to locate any part of the cited references that discloses the claimed silence description frame filer. Thus, Claim 19 is non-obvious over the cited references.

Claims 20 and 23 depend from Claim 19 and incorporate the limitations thereof. Thus, for at least the foregoing reasons, Walker in view of Yoshikawa does not teach or suggest these claims. Accordingly, reconsideration and withdrawal of the § 103 rejection of Claims 19-23 are requested.

C. Claim 21 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Walker in view of Yoshikawa and further in view of Alanara.

Claim 21 depends from Claim 19 and incorporates the limitations thereof. Thus, for at least the foregoing reasons, Walker in view of Yoshikawa does not teach or suggest each of the elements of Claim 21. As mentioned above in regard to Claim 1, Alanara does not teach or suggest a silence description frame, much less the silence description frame filer recited in Claim 19. Thus, Claim 21 is non-obvious over the cited references. Accordingly, reconsideration and withdrawal of the § 103 rejection of Claim 21 are requested.

D. Claim 22 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Walker in view of Yoshikawa further in view of US Patent No. 5,486,863 issued to Auyeung et al. ("Auyeung") further in view of Examiner's Official Notice.

Claim 22 depends from Claim 19 and incorporates the limitations thereof. Thus, for at least the foregoing reasons, Walker in view of Yoshikawa does not teach or suggest each of the elements of Claim 22. Auyeung is relied on for disclosing the use of a microprocessor to encode a video difference. However, Auyeung does not teach or suggest the silence description frame filer as recited in Claim 19. Thus, Claim 22 is non-obvious over the cited references. Accordingly, reconsideration and withdrawal of the § 103 rejection of Claim 22 are requested.

CONCLUSION

In view of the foregoing, it is believed that all claims now are now in condition for allowance and such action is earnestly solicited at the earliest possible date. If there are any additional fees due in connection with the filing of this response, please charge those fees to our Deposit Account No. 02-2666.

Respectfully submitted,

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Date